

include this information in the Initial Compliance Status Report.

(3) *Concentration records.* The owner or operator shall record the regulated organic HAP or TOC concentration (if applicable) as measured using the sampling site and regulated organic HAP or TOC concentration determination procedures specified in paragraphs (e)(1) and (e)(2) of this section, or determined through engineering assessment as specified in paragraph (k) of this section. As specified in paragraph (m) of this section, the owner or operator shall include this information in the Initial Compliance Status Report.

(4) *Process change records.* The owner or operator shall keep up-to-date, readily accessible records of any process changes that change the control applicability for a process vent. Records are to include any recalculation or measurement of the flow rate, regulated organic HAP or TOC concentration, and TRE index value.

(m) *Applicability determination reporting requirements.*—(1) Initial compliance status report. The owner or operator shall submit, as part of the Initial Compliance Status Report specified in § 63.1110, the information recorded in paragraph (m)(2) or (m)(3) of this section.

(2) *Process change.* (i) Whenever a process vent becomes subject to control requirements under subpart SS of this part as a result of a process change, the owner or operator shall submit a report within 60 days after the performance test or applicability determination, whichever is sooner. The report may be submitted as part of the next Periodic Report. The report shall include the information specified in paragraphs (m)(2)(i)(A) through (m)(2)(i)(C) of this section.

(A) A description of the process change;

(B) The results of the recalculation of the flow rate, organic HAP or TOC concentration, and/or TRE index value required under paragraphs (e), (f), and (j), and recorded under paragraph (l); and

(C) A statement that the owner or operator will comply with the requirements specified in § 63.1103 by the schedules specified in that section for the affected source.

(ii) If a performance test is required as a result of a process change, the owner or operator shall specify that the performance test has become necessary due to a process change. This specification shall be made in the notification to the Administrator of the intent to conduct a performance test.

(iii) If a process change does not result in the need for additional requirements then the owner or operator shall include a statement documenting this in the next Periodic Report (as provided for in § 63.1110 of this subpart) after the process change was made.

(iv) *Parameter monitoring.* An owner or operator that maintains a TRE index value (if applicable) greater than the value specified in an applicable table presented in § 63.1103 of this subpart without using a recovery device shall report a description of the parameter(s) to be monitored to ensure pollution prevention measure is operated in conformance with its design or process and achieves and maintains the TRE index value above the specified level, and an explanation of the criteria used to select parameter(s). An owner or operator that maintains a TRE index value (if applicable) greater than the value specified in an applicable table presented in § 63.1104 of this subpart by using a recovery device shall comply with the requirements of § 63.993(c) of subpart SS. A pollution prevention measure is any practice that meets the criteria of paragraphs (m)(2)(iv)(A) and (m)(2)(iv)(B) of this section.

(A) A pollution prevention measure is any practice that results in a lesser quantity of regulated HAP emissions per unit of product released to the atmosphere prior to out-of-process recycling, treatment, or control of emissions, while the same product is produced.

(B) Pollution prevention measures may include: substitution of feedstocks that reduce regulated HAP emissions; alterations to the production process to reduce the volume of materials released to the environment; equipment modifications; housekeeping measures; and in-process recycling that returns waste materials directly to production as raw materials. Production cutbacks do not qualify as pollution prevention.

§ 63.1105 Process vents from batch unit operations: applicability determination procedures and methods.

(a) *General.* The provisions of this section provide calculation and measurement methods for parameters that are used to determine applicability of the requirements for process vents for batch unit operations. Section 63.1103 directs the owner or operator to the specific control requirements and associated monitoring, recordkeeping and reporting requirements that apply.

(b) *Annual organic HAP emissions from process vents from batch unit operations.* An owner or operator shall calculate the annual regulated HAP emissions from all process vents from

batch unit operations for a process unit by following the procedures specified in paragraphs (b)(1) and (b)(2) of this section.

(1) *Batch cycle emissions.* The uncontrolled regulated organic HAP emissions from an individual batch cycle for each process vent from a batch unit operation shall be determined using the procedures in § 63.488 (b)(1) through (b)(7) of subpart U.

(2) *Determination of annual emissions.* The annual regulated organic HAP emissions from each process vent from a batch unit operation shall be determined using the procedures in § 63.448(b)(8) of subpart U. The owner or operator shall determine, for each applicable production process unit, the sum of annual regulated HAP emissions from all process vents from batch unit operations in an applicable production process unit to obtain the total annual regulated organic HAP emissions from the process vents from batch unit operations.

(c) *Halogenated emissions from batch unit operations.* In order to determine whether a batch process vent or an aggregate batch vent stream is halogenated, the annual mass emission rate of halogen atoms contained in organic compounds shall be calculated using the procedures specified in paragraphs (c)(1) through (c)(3) of this section.

(1) The concentration of each organic compound containing halogen atoms (parts per million by volume, by compound) for each batch emission episode shall be determined based on one of the procedures specified in paragraphs (c)(1)(i) through (c)(1)(iv) of this section:

(i) Process knowledge that no halogens or hydrogen halides are present in the process may be used to demonstrate that a batch emission episode is nonhalogenated. Halogens or hydrogen halides that are unintentionally introduced into the process shall not be considered in making a finding that a batch emission episode is nonhalogenated.

(ii) Engineering assessment as discussed in § 63.1104(k).

(iii) Concentration of organic compounds containing halogens and hydrogen halides as measured by Method 26 or 26A of 40 CFR part 60, appendix A.

(iv) Any other method or data that has been validated according to the applicable procedures in Method 301, 40 CFR part 63, appendix A.

(2) The mass of halogen atoms for a batch process vent shall be calculated using Equation 6.

$$E_{\text{halogen}} = K \left[\sum_{j=1}^n \sum_{i=1}^m (C_{\text{avgj}})(L_{j,i})(M_{j,i}) \right] \text{AFR} \quad [\text{Eq. 6}]$$

Where:

E_{halogen} = Mass of halogen atoms, dry basis, kilograms per year.

K = Constant, 0.022 (parts per million by volume)⁻¹ (kilogram-mole per scm) (minutes per year), where standard temperature is 20°C.

AFR = Annual average batch vent flow rate of the batch process vent, determined according to paragraph (d) of this section, scmm.

$M_{j,i}$ = Molecular weight of halogen atom i in compound j , kilogram per kilogram-mole.

$L_{j,i}$ = Number of atoms of halogen i in compound j .

n = Number of halogenated compounds j in the batch process vent.

m = Number of different halogens i in each compound j of the batch process vent.

C_{avgj} = Annual average batch vent concentration of halogenated compound j in the batch process vent, as determined by using Equation 7, dry basis, parts per million by volume.

$$C_{\text{avgj}} = \frac{\sum_{i=1}^n (\text{DUR}_i)(C_i)}{\sum_{i=1}^n (\text{DUR}_i)} \quad [\text{Eq. 7}]$$

Where:

DUR_i = Duration of type i batch emission episodes annually, hours per year.

C_i = Average batch vent concentration of halogenated compound j in type i batch emission episode, parts per million by volume.

n = Number of types of batch emission episodes venting from the batch process vent.

(3) The annual mass emissions of halogen atoms for an aggregate batch vent stream shall be the sum of the annual mass emissions of halogen atoms for all batch process vents included in the aggregate batch vent stream.

(d) *Determination of average flow rate and annual average flow rate.* The owner or operator shall determine, for each applicable production process unit, the total annual average flow rate for all process vents from batch unit operations in accordance with (d)(1) and (d)(2) of this section.

(1) The annual average flow rate for each process vent from a batch unit operation shall be determined using the procedures in § 63.488(e) of subpart U.

(2) The owner or operator shall sum the annual average flow rates from the individual process vents from batch unit operations in an applicable production process unit, determined in accordance with paragraph (d)(1) of this section, to obtain the total annual average flow rate for all process vents from batch unit operations for the applicable production process unit.

(e) *Determination of cutoff flow rate.* For each applicable production process unit at an affected source, the owner or operator shall calculate the cutoff flow rate using Equation 8.

$$\text{CFR} = (0.00437)(\text{AE}) - 51.6 \quad [\text{Eq. 8}]$$

Where:

CFR = Cutoff flow rate, standard cubic meters per minute.

AE = Annual TOC or regulated organic HAP emissions from all process vents from batch unit operations in an applicable process unit, as determined in paragraph (b)(2) of this section, kilograms per year.

§ 63.1106 Wastewater treatment system units: applicability determination procedures and methods.

(a) *Knowledge of the wastewater.* The owner or operator shall provide sufficient information to document the total organic HAP average concentration for regulated organic HAP. Examples of information that could constitute knowledge include material balances, records of chemical purchases, process stoichiometry, or previous test results provided the results are still

representative of current operating practices at the process unit(s). If test data are used, then the owner or operator shall provide documentation describing the testing protocol and the means by which sampling variability and analytical variability were accounted for in the determination of the total organic HAP average concentration of HAP. The owner or operator shall document how process knowledge is used to determine the total organic HAP average concentration of regulated organic HAP if it is determined that the wastewater stream is not subject to emission control requirements under this subpart due to regulated organic HAP concentration.

(b) *Bench-scale or pilot-scale test data.* The owner or operator shall provide sufficient information to demonstrate that the bench-scale or pilot-scale test concentration data are representative of the actual total organic HAP average concentration of regulated organic HAP. The owner or operator shall also provide documentation describing the testing protocol, and the means by which sampling variability and analytical variability were accounted for in the determination of total organic HAP average concentration or average organic HAP concentration of each individually speciated regulated organic HAP for the wastewater stream.

(c) *Total organic HAP average concentration or average organic HAP concentration.* Each wastewater stream shall be analyzed using one of the following test methods for determining the total organic HAP average concentration or average organic HAP concentration of each regulated organic HAP.

(1) Use procedures specified in Method 305 of 40 CFR part 63, appendix A.

(i) Equation 9 shall be used to calculate the organic HAP concentration of a regulated organic HAP under this subpart:

$$C_i = \left(C_C * \frac{\text{MW}}{24.055} * \frac{P_i}{760} * \frac{293}{T_i} * t * L * 10^3 \right) / M_S \quad [\text{Eq. 9}]$$

Where:

C_i = organic HAP concentration of the regulated organic HAP in the wastewater, parts per million by weight.
 C_C = Concentration of the regulated organic HAP (i) in the gas stream, as measured by Method 305 of appendix A of this part, parts per million by volume on a dry basis.
 M_S = Mass of sample, from Method 305 of appendix A of this part, milligrams.
 MW = Molecular weight of the organic HAP (i), grams per gram-mole.
 24.055 = Ideal gas molar volume at 293 °Kelvin and 760 millimeters of mercury, liters per gram-mole.
 P_i = Barometric pressure at the time of sample analysis, millimeters mercury absolute.
 760 = Reference or standard pressure, millimeters mercury absolute.
 293 = Reference or standard temperature, °Kelvin.
 T_i = Sample gas temperature at the time of sample analysis, °Kelvin.
 t = Actual purge time, from Method 305 of appendix A of this part, minutes.

L = Actual purge rate, from Method 305 of appendix A of this part, liters per minute.

10^3 = Conversion factor, milligrams per gram.

(ii) Total organic HAP concentration (stream) can be determined by summing the organic HAP concentrations of all regulated organic HAP's in the wastewater as illustrated by Equation 10.

$$C_{\text{stream}} = \sum_{i=1}^n C_i \quad [\text{Eq. 10}]$$

Where:

C_{stream} = Total organic HAP concentration of wastewater stream.

i = Number of organic HAP's in the wastewater stream.

C_i = organic HAP concentration of individual organic HAP (i) calculated according to the procedures in paragraph (c)(1)(i) of this section.

(iii) The calculations in paragraph (c)(1)(i), and where applicable, (c)(1)(ii) of this section shall be performed for a

$$C_{\text{stream, avg}} = \frac{\sum_{j=1}^m C_{\text{stream, j}}}{j} \quad [\text{Eq. 11}]$$

Where:

$C_{\text{stream, avg}}$ = total organic HAP average concentration for regulated organic HAP.

$C_{\text{stream, j}}$ = total organic HAP concentration of wastewater stream as

measured in sample (j), calculated according to the procedures in paragraph (c)(1)(ii) of this section.

(v) The average organic HAP concentration for each regulated organic

$$C_{i, \text{avg}} = \frac{\sum_{j=1}^m C_{i, j}}{j} \quad [\text{Eq. 12}]$$

Where:

$C_{i, \text{avg}}$ = average organic HAP concentration for each regulated organic HAP under this subpart
 j = number of samples

$C_{i, j}$ = organic HAP concentration of an individual organic HAP (i) as measured in sample (j).

(d) *Annual average wastewater flow rate.* An owner or operator shall determine the annual average wastewater flow rate either at the point of generation for each wastewater stream, as specified in paragraph (d)(1) of this section, or downstream of the point(s) of generation for a single wastewater stream or a mixture of wastewater streams as specified in paragraph (d)(2) of this section.

(1) An owner or operator who elects to determine the annual average wastewater flow rate at the point of generation shall comply with paragraph (d)(3), (d)(4), or (d)(5) of this section.

(2) An owner or operator who elects to determine the annual average wastewater flow rate downstream of the point of generation shall comply with paragraph (d)(3), (d)(4), or (d)(5) of this section and with paragraph (d)(6) of this section.

(3) Use the maximum annual average production capacity of the process unit, knowledge of the process, and mass balance information to either: estimate directly the annual average wastewater flow rate; or estimate the total annual wastewater volume and then divide total volume by 525,600 minutes in a

minimum of three samples from each wastewater stream which are representative of normal flow and concentration conditions. Wastewater samples shall be collected using the sampling procedures specified in Method 25D of 40 CFR part 60, appendix A. Where feasible, samples shall be taken from an enclosed pipe prior to the wastewater being exposed to the atmosphere. When sampling from an enclosed pipe is not feasible, a minimum of three representative samples shall be collected in a manner to minimize exposure of the sample to the atmosphere and loss of organic HAP prior to sampling.

(iv) If the wastewater stream has a steady flow rate throughout the year, the total organic HAP average concentration for regulated organic HAP under this subpart of the wastewater stream shall be calculated by averaging the values calculated in paragraph (c)(1)(ii) for the individual samples as illustrated by Equation 11.

HAP shall be calculated by averaging the values calculated in paragraph (c)(1)(i) of this section for the individual samples as illustrated by Equation 12.

year. If knowledge of the process is used to determine the annual average flow rate for a wastewater stream and it is determined that the wastewater stream is not subject to control requirements, the owner or operator shall document how process knowledge is used to determine annual average flow rate.

(4) Select the highest annual average flow rate of wastewater from historical records representing the most recent 5 years of operation or, if the process unit has been in service for less than 5 years but at least 1 year, from historical records representing the total operating life of the process unit.

(5) Measure the flow rate of the wastewater for the point of generation during conditions that are

representative of average wastewater generation rates.

(6) When the average wastewater flow rate is determined downstream of the point of generation at a location where two or more wastewater streams have been mixed, or one or more wastewater streams have been treated or organic HAP losses to the atmosphere have occurred, the owner or operator shall make corrections for such changes in average wastewater flow rate when calculating to represent the average wastewater flow rate at the point of generation.

§ 63.1107 Equipment leaks: applicability determination procedures and methods.

(a) Each piece of equipment within a process unit that can reasonably be expected to contain equipment in organic HAP service is presumed to be in organic HAP service unless an owner or operator demonstrates that the piece of equipment is not in organic HAP service. For a piece of equipment to be considered not in organic HAP service, it must be determined that the percent organic HAP content can be reasonably expected not to exceed the percent by weight control applicability criteria specified in § 63.1103 for an affected source on an annual average basis. For purposes of determining the percent organic HAP content of the process fluid that is contained in or contacts equipment, Method 18 of 40 CFR part 60, appendix A shall be used.

(b) An owner or operator may use good engineering judgment rather than the procedures in paragraph (a) of this section to determine that the percent organic HAP content does not exceed the percent by weight control applicability criteria specified in § 63.1103 for an affected source. When an owner or operator and the Administrator do not agree on whether a piece of equipment is not in organic HAP service, however, the procedures in paragraph (a) of this section shall be used to resolve the disagreement.

(c) If an owner or operator determines that a piece of equipment is in organic HAP service, the determination can be revised after following the procedures in paragraph (a) of this section, or by documenting that a change in the process or raw materials no longer causes the equipment to be in organic HAP service.

(d) Samples used in determining the percent organic HAP content shall be representative of the process fluid that is contained in or contacts the equipment.

§ 63.1108 Compliance with standards and operation and maintenance requirements.

(a) *Requirements.* (1) Except as provided in paragraph (a)(2) of this section, the standards and established parameter ranges of this part shall apply at all times except during periods of startup, shutdown, malfunction, or non-operation of the affected source (or specific portion thereof) resulting in cessation of the emissions to which this subpart applies. However, if a start-up, shutdown, malfunction or period of non-operation of one portion of an affected source does not affect the ability of a particular emission point to comply with the specific provisions to which it is subject, then that emission point shall still be required to comply with the applicable provisions of this subpart and any of the subparts that are referenced by this subpart during startup, shutdown, malfunction, or period of non-operation.

(2) If equipment leak requirements are referenced by this subpart for a subject source category, such requirements shall apply at all times except during periods of startup, shutdown, or malfunction, process unit shutdown (as defined in § 63.1101), or nonoperation of the affected source (or specific portion thereof) in which the lines are drained and depressurized resulting in cessation of the emissions to which the equipment leak requirements apply.

(3) For batch unit operations, shutdown does not include the normal periods between batch cycles; and start-up does not include the recharging of batch unit operations, or the transitional conditions due to changes in product.

(4) The owner or operator shall not shut down items of equipment that are required or utilized for compliance with requirements of this subpart and any of the subparts that are referenced by this subpart during periods of startup, shutdown, or malfunction when emissions are being routed to such items of equipment if the shutdown would contravene requirements of this subpart to such items of equipment. The owner or operator shall not shut down CPMS during times when emissions are being routed to the equipment that they are monitoring. This paragraph does not apply if the item of equipment is malfunctioning. This paragraph does not apply if the owner or operator shuts down the compliance equipment (other than monitoring systems) to avoid damage due to contemporaneous startup, shutdown, or malfunction of the affected source or portion thereof. If the owner or operator has reason to believe that monitoring equipment would be damaged due to a contemporaneous start-up, shutdown, or malfunction of

the affected source or portion thereof, the owner or operator shall provide documentation supporting such a claim. Once approved by the Administrator, the provision for ceasing to collect, during a startup, shutdown, or malfunction, monitoring data that would otherwise be required by the provisions of this subpart must be incorporated into the start-up, shutdown, malfunction plan for that affected source.

(5) During startups, shutdowns, and malfunctions when the standards of this subpart and the subparts referenced by this subpart do not apply pursuant to paragraphs (a)(1) through (a)(4) of this section, the owner or operator shall implement, to the extent reasonably available, measures to prevent or minimize excess emissions. For purposes of this paragraph, the term "excess emissions" means emissions in excess of those that would have occurred if there were no start-up, shutdown, or malfunction and the owner or operator complied with the relevant provisions of this subpart and the subparts referenced by this subpart. The measures to be taken shall be identified in the start-up, shut down, and malfunction plan (if applicable), and may include, but are not limited to, air pollution control technologies, recovery technologies, work practices, pollution prevention, monitoring, and/or changes in the manner of operation of the affected source. Back-up control devices are not required, but may be used if available.

(6) Malfunctions shall be corrected as soon as practical after their occurrence and/or in accordance with the source's startup, shutdown, and malfunction plan developed as specified under § 63.1111.

(7) Operation and maintenance requirements established pursuant to section 112 of the Act are enforceable, independent of emissions limitations or other requirements in relevant standards.

(b) *Compliance determination procedures.*—(1) *Parameter monitoring: compliance with operating conditions.* Compliance with the required operating conditions for the monitored control devices or recovery devices may be determined by, but is not limited to, the parameter monitoring data for emission points that are required to perform continuous monitoring. For each excursion except for excused excursions, and as provided for in paragraph (b)(4) of this section the owner or operator shall be deemed to have failed to have applied the control in a manner that achieves the required operating conditions.

(2) *Parameter monitoring: excursions.* An excursion is not a violation and in cases where continuous monitoring is required the excursion does not count toward the number of excused excursions, if the conditions of paragraphs (b)(2)(i) or (b)(2)(ii) of this section are met. Nothing in this paragraph shall be construed to allow or excuse a monitoring parameter excursion caused by any activity that violates other applicable provisions of this subpart or a subpart referenced by this subpart.

(i) During periods of startup, shutdown, or malfunction [and the source is operated during such periods in accordance with the source's startup, shutdown, and malfunction plan as required by § 63.1111], a monitored parameter is outside its established range or monitoring data cannot be collected, or

(ii) During periods of nonoperation of the affected source or portion thereof (resulting in cessation of the emissions to which the monitoring applies.

(3) *Operation and maintenance procedures.* Determination of whether acceptable operation and maintenance procedures are being used will be based on information available to the Administrator. This information may include, but is not limited to, monitoring results, review of operation and maintenance procedures (including the startup, shutdown, and malfunction plan under § 63.1111), review of operation and maintenance records, and inspection of the affected source and alternatives approved as specified in § 63.1113.

(4) *Applicability and compliance determination.* Applicability and compliance with standards shall be governed, in part, but not limited to, the use of data, tests, and requirements according to paragraphs (b)(4)(i) through (b)(4)(iii). Compliance with design, equipment, work practice, and operating standards, including those for equipment leaks, shall be determined according to paragraph (a)(3) of this section.

(i) *Applicability determinations.* Unless otherwise specified in a relevant test method required to determine control applicability, each test shall consist of three separate runs using the applicable test method. Each run shall be conducted for the time and under the conditions specified in this subpart. The arithmetic mean of the results of the three runs shall apply when determining applicability. Upon receiving approval from the Administrator, results of a test run may be replaced with results of an additional test run if it meets the criteria specified

in paragraphs (a)(4)(i)(A) through (a)(4)(i)(D).

(A) A sample is accidentally lost after the testing team leaves the site; or

(B) Conditions occur in which one of the three runs must be discontinued because of forced shutdown; or

(C) Extreme meteorological conditions occur;

(D) Other circumstances occur that are beyond the owner or operator's control.

(ii) *Performance test.* The Administrator may determine compliance with emission limitations of this subpart based on, but is not limited to, the results of performance tests conducted according to the procedures specified in subpart SS of this part, unless otherwise specified in this subpart or a subpart referenced by this subpart.

(iii) *Operation and maintenance requirements.* The Administrator may determine compliance with the operation and maintenance standards of this subpart by, but is not limited to, evaluation of an owner or operator's conformance with operation and maintenance requirements, including the evaluation of monitoring data, as specified in this subpart or a subpart referenced by this subpart.

(5) *Design, equipment, work practice, or operational standards.* The Administrator may determine compliance with design, equipment, work practice, or operational requirements by, but is not limited to, review of records, inspection of the affected source, and by evaluation of an owner or operator's conformance with operation and maintenance requirements as specified in this subpart, and in the subparts referenced by this subpart.

(c) *Finding of compliance.* The Administrator may make a finding concerning an affected source's compliance with an emission standard or operating and maintenance requirement as specified in, but not limited to, paragraphs (a) and (b) of this section, upon obtaining all of the compliance information required by the relevant standard (including the written reports of performance test results, monitoring results, and other information, if applicable) and any information available to the Administrator to determine whether proper operation and maintenance practices are being used. Standards in this subpart and methods of determining compliance are in metric units followed by the equivalents in English units. The Administrator will make findings of compliance with the numerical standards of this subpart using metric units.

(d) *Compliance time.* All terms that define a period of time for completion of required tasks (e.g., weekly, monthly, quarterly, annually), unless specified otherwise in the section or subsection that imposes the requirement, refer to the standard calendar periods.

(1) Notwithstanding time periods specified for completion of required tasks, time periods may be changed by mutual agreement between the owner or operator and the Administrator, as specified in § 63.1110(h). For each time period that is changed by agreement, the revised period shall remain in effect until it is changed. A new request is not necessary for each recurring period.

(2) When the period specified for compliance is a standard calendar period, if the initial compliance date occurs after the beginning of the period, compliance shall be required according to the schedule specified in paragraph (d)(2)(i) or (d)(2)(ii) of this section, as appropriate.

(i) Compliance shall be required before the end of the standard calendar period within which the compliance deadline occurs, if there remain at least 3 days for tasks that must be performed weekly, at least 2 weeks for tasks that must be performed monthly, at least 1 month for tasks that must be performed each quarter, or at least 3 months for tasks that must be performed annually; or

(ii) In all other cases, compliance shall be required before the end of the first full standard calendar period after the period within which the initial compliance deadline occurs.

(3) In all instances where a provision requires completion of a task during each of multiple successive periods, an owner or operator may perform the required task at any time during the specified period, provided the task is conducted at a reasonable interval after completion of the task during the previous period.

§ 63.1109 Recordkeeping requirements.

(a) *Maintaining notifications, records, and reports.* Except as provided in paragraph (b) of this section, the owner or operator of each affected source subject to this subpart shall keep copies of notifications, reports and records required by this subpart and subparts referenced by this subpart for at least 5 years, unless otherwise specified under this subpart.

(b) *Copies of reports.* If the Administrator has waived the requirement for submittal of copies of reports, the owner or operator is not required to maintain copies of the waived reports. This paragraph applies only to reports and not the underlying

records that must be maintained as specified throughout this subpart and the subparts referenced by this subpart.

(c) *Availability of records.* All records required to be maintained by this subpart or a subpart referenced by this subpart shall be maintained in such a manner that they can be readily accessed and are suitable for inspection. The most recent 2 years of records shall be retained onsite or shall be accessible to an inspector while onsite. The records of the remaining 3 years, where required, may be retained offsite. Records may be maintained in hard copy or computer-readable form including, but not limited to, on paper, microfilm, computer, computer disk, magnetic tape, or microfiche.

(d) *Control applicability records.* Owners or operators shall maintain information developed and used to determine control applicability under § 63.1103 (e.g., combined total annual emissions of regulated organic HAP).

§ 63.1110 Reporting requirements.

(a) *Required reports.* Each owner or operator of an affected source subject to this subpart shall submit the reports listed in paragraphs (a)(1) through (a)(6) of this section, as applicable.

(1) A *Notification of initial startup* described in paragraph (b) of this section, as applicable.

(2) An *Initial notification* described in paragraph (c) of this section.

(3) An *Initial compliance status report* described in paragraph (d) of this section.

(4) *Periodic reports* described in paragraph (e) of this section.

(5) *Application for approval of construction or reconstruction* described in § 63.5(d) of subpart A of this part.

(6) *Startup, shutdown, and malfunction reports* described in § 63.1111 of this subpart.

(7) *Other reports.* Other reports shall be submitted as specified elsewhere in this subpart and subparts referenced by this subpart.

(b) *Notification of initial startup.*—(1) *Contents.* An owner or operator of an affected source for which a notice of initial startup has not been submitted under 40 CFR part 63, subpart A, § 63.5, shall send the Administrator written notification of the actual date of initial startup of an affected source.

(2) *Due date.* The notification of the actual date of initial startup shall be postmarked within 15 days after such date.

(c) *Initial notification.* Owners or operators of affected sources that are subject to this subpart shall notify the Administrator of the applicability of this subpart. The notice shall include the

information specified in paragraphs (c)(1) through (c)(6) of this section, as applicable. An application for approval of construction or reconstruction required under § 63.5(d) of subpart A of this part may be used to fulfill the initial notification requirements.

(1) Identification of the storage vessels subject to this subpart.

(2) Identification of the process vents subject to this subpart.

(3) Identification of the transfer racks subject to this subpart.

(4) For equipment leaks, identification of the process units of affected facilities subject to this subpart.

(5) Identification of other equipment or emission points subject to this subpart.

(6) The proposed implementation schedule for affected sources identified in paragraphs (c)(1) through (c)(5) of this section, with the implementation schedule extending no longer than 3 years.

(7) *Process unit identification.* As an alternative to the requirements specified in paragraphs (c)(1) through (c)(5) of this section, process units can be identified instead of individual pieces of equipment. For this alternative, the kind of emission point in the process unit that will comply must also be identified.

(8) *Due date.* The initial notification shall be postmarked within 120 calendar days after the source becomes subject to this subpart.

(d) *Initial compliance status report.*—

(1) *Contents.* The owner or operator shall submit an Initial Compliance Status Report for each affected source subject to this subpart containing the information specified in this subpart and the subparts referenced by this subpart. Alternatively, this information can be submitted as part of a title V permit application or amendment.

(2) *Due date.* The owner or operator shall submit the Initial Compliance Status Report for each affected source 240 days after the compliance date specified for the affected source under this subpart, or 60 days after the completion of the initial performance test or initial compliance determination, whichever is earlier. Initial Compliance Status Reports may be combined for multiple affected sources as long as the due date requirements for all sources covered in the combined report are met.

(e) *Periodic reports.* The owner or operator of a source subject to monitoring requirements of this subpart, or to other requirements of this subpart or subparts referenced by this subpart, where periodic reporting is specified, shall submit a Periodic Report.

(1) *Contents.* Periodic Reports shall include all information specified in this

subpart and subparts referenced by this subpart.

(2) *Due date.* The Periodic Report shall be submitted semiannually no later than 60 calendar days after the end of each 6-month period. The first report shall be submitted no later than the last day of the month that includes the date 8 months (6 months and 60 days) after the date the source became subject to this subpart.

(3) *Overlap with title V reports.* Information required by this subpart, which is submitted with a title V periodic report, need not also be included in a subsequent Periodic Report required by this subpart or subpart referenced by this subpart. The title V report shall be referenced in the Periodic Report required by this subpart.

(f) *General report content.* All reports and notifications submitted pursuant to this subpart, including reports that combine information required under this subpart and a subpart referenced by this subpart, shall include the information specified in paragraphs (f)(1) through (f)(4) of this section.

(1) The name, address and telephone number (fax number may also be provided) of the owner or operator.

(2) The name, address and telephone number of the person to whom inquiries should be addressed, if different than the owner or operator.

(3) The address (physical location) of the reporting facility.

(4) Identification of each affected source covered in the submission and identification of the subparts (this subpart and the subparts referenced in this subpart) that are applicable to that affected source. Summaries and groupings of this information are permitted.

(g) *Report and notification submission.*—(1) *Submission to the Environmental Protection Agency.* All reports and notifications required under this subpart shall be sent to the appropriate EPA Regional Office and to the delegated State authority. The EPA Regional Office may waive the requirement to submit a copy of any reports or notifications at its discretion.

(2) *Submission of copies.* If any State requires a notice that contains all the information required in a report or notification listed in this subpart, an owner or operator may send the appropriate EPA Regional Office a copy of the report or notification sent to the State to satisfy the requirements of this subpart for that report or notification.

(3) *Method of submission.* Wherever this subpart specifies "postmark" dates, submittals may be sent by methods other than the U.S. Mail (e.g., by fax or

courier). Submittals shall be sent on or before the specified date.

(4) *Submission by electronic media.* If acceptable to both the Administrator and the owner or operator of an affected source, reports may be submitted on electronic media.

(h) *Adjustment to timing of submittals and review of required*

communications.—(1) *Alignment with title V submission.* An owner or operator may submit Periodic Reports required by this subpart on the same schedule as the title V periodic report for the facility. The owner or operator using this option need not obtain prior approval, but must ensure that no reporting gaps occur. The owner or operator shall clearly identify the change in reporting schedule in the first report filed under this paragraph. The requirements of paragraph (e) of this section are not waived when implementing this change.

(2) *Establishment of a common schedule.* An owner or operator may arrange by mutual agreement (which may be a standing agreement) with the Administrator a common schedule on which periodic reports required by this subpart shall be submitted throughout the year as long as the reporting period is not extended. Procedures governing the implementation of this provision are specified in paragraphs (h)(3) through (h)(7) of this section.

(3) *Submission requirements.* Except as allowed by paragraph (h)(1) of this section, until an adjustment of a time period or postmark deadline has been approved by the Administrator under paragraphs (h)(5) and (h)(6) of this section, the owner or operator of an affected source remains strictly subject to the required submittal deadlines specified in this subpart and subparts referenced by this subpart.

(4) *Request for adjustment of reporting schedule.* Except as allowed by paragraph (h)(1) of this section, an owner or operator shall request the adjustment provided for in paragraphs (h)(5) and (h)(6) of this section each time he or she wishes to change an applicable time period or postmark deadline specified in this subpart or subparts referenced by this subpart. A request for a change to the periodic reporting schedule need only be made once for every schedule change and not once for every semiannual report submitted.

(5) *Alteration of time periods or deadlines.* Notwithstanding time periods or postmark deadlines specified in this subpart for the submittal of information to the Administrator by an owner or operator, or the review of such information by the Administrator, such

time periods or deadlines may be changed by mutual agreement between the owner or operator and the Administrator. An owner or operator who wishes to request a change in a time period or postmark deadline for a particular requirement shall request the adjustment in writing as soon as practical before the subject activity is required to take place. The owner or operator shall include in the request whatever information he or she considers useful to convince the Administrator that an adjustment is warranted.

(6) *Approval of request for adjustment.* If, in the Administrator's judgment, an owner or operator's request for an adjustment to a particular time period or postmark deadline is warranted, the Administrator will approve the adjustment. The Administrator will notify the owner or operator in writing of approval or disapproval of the request for an adjustment within 15 calendar days of receiving sufficient information to evaluate the request.

(7) *Notification of delay.* If the Administrator is unable to meet a specified deadline, he or she will notify the owner or operator of any significant delay and inform the owner or operator of the amended schedule.

§ 63.1111 Startup, Shutdown, and Malfunction.

(a) *Startup, shutdown, and malfunction plan.*—(1) *Description and purpose of plan.* The owner or operator of an affected source shall develop and implement a written startup, shutdown, and malfunction plan that describes, in detail, procedures for operating and maintaining the affected source during periods of startup, shutdown, and malfunction. This plan shall include a program of corrective action for malfunctioning process and air pollution control equipment used to comply with relevant standards under this subpart and subparts referenced by this subpart. The plan shall also address routine or otherwise predictable CPMS malfunctions. This plan shall be developed by the owner or operator by the affected source's compliance date under this subpart. The requirement to develop and implement this plan shall be incorporated into the source's title V permit. This requirement is optional for equipment that must comply with subparts TT or UU of this part. It is not optional for equipment equipped with a closed vent system and control device subject to subpart SS of this part. The purpose of the startup, shutdown, and malfunction plan is described in

paragraphs (a)(1)(i) and (a)(1)(ii) of this section.

(i) To ensure that owners or operators are prepared to correct malfunctions as soon as practical after their occurrence, in order to minimize excess emissions of regulated HAP; and

(ii) To reduce the reporting burden associated with periods of startup, shutdown, and malfunction (including corrective action taken to restore malfunctioning process and air pollution control equipment to its normal or usual manner of operation).

(2) *Operation of source.* During periods of startup, shutdown, and malfunction, the owner or operator of an affected source subject to this subpart shall operate and maintain such affected source (including associated air pollution control equipment and CPMS) in accordance with the procedures specified in the startup, shutdown, and malfunction plan developed under paragraph (a)(1) of this section.

(3) *Use of additional procedures.* To satisfy the requirements of this section to develop a startup, shutdown, and malfunction plan, the owner or operator of an affected source may use the affected source's standard operating procedures (SOP) manual, or an Occupational Safety and Health Administration (OSHA) or other plan, provided the alternative plans meet all the requirements of this section and are made available for inspection when requested by the Administrator.

(4) *Revisions to the plan.* The Administrator may require that an owner or operator of an affected source make changes to the startup, shutdown, and malfunction plan for that source. The Administrator may require reasonable revisions to a startup, shutdown, and malfunction plan, if the Administrator finds that the plan is inadequate as specified in paragraphs (a)(4)(i) through (a)(4)(iv):

(i) Does not address a startup, shutdown, and malfunction event of the CPMS, the air pollution control equipment, or the affected source that has occurred; or

(ii) Fails to provide for the operation of the affected source (including associated air pollution control equipment and CPMS) during a startup, shutdown, and malfunction event in a manner consistent with good air pollution control practices for minimizing emissions to the extent practical; or

(iii) Does not provide adequate procedures for correcting malfunctioning process and air pollution control equipment as quickly as practicable; or

(iv) Does not provide adequate measures to prevent or minimize excess emissions to the extent practical.

(5) *Additional malfunction plan requirements.* If a startup, shutdown, and malfunction plan developed under paragraph (a)(1) of this section fails to address or inadequately addresses an event that meets the characteristics of a malfunction, the owner or operator shall revise the startup, shutdown, and malfunction plan within 45 days after the event to include detailed procedures for operating and maintaining the affected source during similar malfunction events and a program of corrective action for similar malfunctions of process or air pollution control equipment or CPMS.

(b) *Startup, shutdown, and malfunction reporting requirements.*—
(1) *Periodic startup, shutdown, and malfunction reporting requirements.* If actions taken by an owner or operator during a startup, shutdown, and malfunction of an affected source, or of a control device or monitoring system required for compliance (including actions taken to correct a malfunction) are consistent with the procedures specified in the affected source's plan, then the owner or operator shall state such information in a startup, shutdown, and malfunction report. Reports shall only be required for a startup, shutdown, and malfunction during which excess emissions occur during the reporting period. A startup, shutdown, and malfunction report can be submitted as part of a Periodic Report required under § 63.1110, or on a more frequent basis if specified otherwise under this subpart or a subpart referenced by this subpart or as established otherwise by the permitting authority in the source's title V permit. The startup, shutdown, and malfunction report shall be delivered or postmarked by the 30th day following the end of each calendar half (or other calendar reporting period, as appropriate), unless the information is submitted with the Periodic Report. The report shall include the information specified in paragraphs (b)(1)(i) and (b)(1)(ii) of this section.

(i) The name, title, and signature of the owner or operator or other responsible official certifying its accuracy.

(ii) The number of startup, shutdown, and malfunction events and the total duration of all periods of startup, shutdown, and malfunction for the reporting period if the total duration amounts to either of the durations in paragraphs (b)(1)(ii)(A) or (b)(1)(ii)(B).

(A) Total duration of periods of nonoperation or malfunctioning of a

CPMS equal to or greater than 5 percent of that CPMS operating time for the reporting period; or

(B) Total duration of periods of startup, shutdown, and malfunction for an affected source during which excess emissions occur equal to or greater than 1 percent of that affected source's operating time for the reporting period.

(2) *Immediate startup, shutdown, and malfunction reports.*

(i) Notwithstanding the allowance to reduce the frequency of reporting for startup, shutdown, and malfunction reports under paragraph (b)(1) of this section, any time an action taken by an owner or operator during a startup, shutdown, or malfunction (including actions taken to correct a malfunction) during which excess emissions occur is not consistent with the procedures specified in the affected source's plan, the owner or operator shall report the actions taken for that event within 2 working days after commencing actions inconsistent with the plan, followed by a letter delivered or postmarked within 7 working days after the end of the event. The immediate report required under this paragraph shall contain the name, title, and signature of the owner or operator or other responsible official who is certifying its accuracy, explaining the circumstances of the event, the reasons for not following the startup, shutdown, and malfunction plan (if applicable), and whether any excess emissions or parameter monitoring exceedances are believed to have occurred. Notwithstanding the requirements of the previous sentence, after the effective date of an approved permit program in the State in which an affected source is located, the owner or operator may make alternative reporting arrangements, in advance, with the permitting authority in that State. Procedures governing the arrangement of alternative reporting requirements under this paragraph are specified in § 63.1110(h).

§ 63.1112 Extension of compliance, and performance test, monitoring, recordkeeping and reporting waivers and alternatives.

(a) *Extension of compliance.*—(1) *Extension of compliance with emission standards.*

Until an extension of compliance has been granted by the Administrator (or a State with an approved permit program) under this paragraph, the owner or operator of an affected source subject to the requirements of this section shall comply with all applicable requirements of this subpart.

(2) *Extension of compliance for early reductions and other reductions.*—(i)

Early reductions. Pursuant to section 112(i)(5) of the Act, if the owner or operator of an existing source demonstrates that the source has achieved a reduction in emissions of hazardous air pollutants in accordance with the provisions of subpart D of this part, the Administrator (or the State with an approved permit program) will grant the owner or operator an extension of compliance with specific requirements of this part, as specified in subpart D of this part.

(ii) *Other reductions.* Pursuant to section 112(i)(6) of the Act, if the owner or operator of an existing source has installed best available control technology (BACT) (as defined in section 169(3) of the Act) or technology required to meet a lowest achievable emission rate (LAER) (as defined in section 171 of the Act) prior to the promulgation of an emission standard in this part applicable to such source and the same pollutant (or stream of pollutants) controlled pursuant to the BACT or LAER installation, the Administrator will grant the owner or operator an extension of compliance with such emission standard that will apply until the date 5 years after the date on which such installation was achieved, as determined by the Administrator.

(3) *Request for extension of compliance.* Paragraphs (a)(4) through (a)(7) of this section concern requests for an extension of compliance with a relevant standard under this part [except requests for an extension of compliance under paragraph (a)(2)(i) of this section will be handled through procedures specified in subpart D of this part].

(4)(i)(A) The owner or operator of an existing source who is unable to comply with a relevant standard established under this part pursuant to section 112(d) of the Act may request that the Administrator (or a State, when the State has an approved title V permit program and the source is required to obtain a title V permit under that program, or a State, when the State has been delegated the authority to implement and enforce the emission standard for that source) grant an extension allowing the source up to 1 additional year to comply with the standard, if such additional period is necessary for the installation of controls. An additional extension of up to 3 years may be added for mining waste operations, if the 1-year extension of compliance is insufficient to dry and cover mining waste in order to reduce emissions of any hazardous air pollutant. The owner or operator of an affected source who has requested an

extension of compliance under this paragraph and who is otherwise required to obtain a title V permit shall apply for such permit or apply to have the source's title V permit revised to incorporate the conditions of the extension of compliance. The conditions of an extension of compliance granted under this paragraph will be incorporated into the affected source's title V permit according to the provisions of part 70 or Federal title V regulations in this chapter (42 U.S.C. 7661), whichever are applicable.

(B) Any request under this paragraph for an extension of compliance with a relevant standard shall be submitted in writing to the appropriate authority not later than 12 months before the affected source's compliance date (as specified in § 63.1102) for sources that are not including emission points in an emissions average, or not later than 18 months before the affected source's compliance date [as specified in § 63.1102] for sources that are including emission points in an emissions average. Emission standards established under this part may specify alternative dates for the submittal of requests for an extension of compliance if alternatives are appropriate for the source categories affected by those standards, e.g., a compliance date specified by the standard is less than 12 (or 18) months after the standard's effective date.

(ii) The owner or operator of an existing source unable to comply with a relevant standard established under this part pursuant to section 112(f) of the Act may request that the Administrator grant an extension allowing the source up to 2 years after the standard's effective date to comply with the standard. The Administrator may grant such an extension if he/she finds that such additional period is necessary for the installation of controls and that steps will be taken during the period of the extension to assure that the health of persons will be protected from imminent endangerment. Any request for an extension of compliance with a relevant standard under this paragraph shall be submitted in writing to the Administrator not later than 15 calendar days after the effective date of the relevant standard.

(5) The owner or operator of an existing source that has installed BACT or technology required to meet LAER [as specified in paragraph (a)(2)(ii) of this section] prior to the promulgation of a relevant emission standard in this part may request that the Administrator grant an extension allowing the source 5 years from the date on which such installation was achieved, as

determined by the Administrator, to comply with the standard. Any request for an extension of compliance with a relevant standard under this paragraph shall be submitted in writing to the Administrator not later than 120 days after the promulgation date of the standard. The Administrator may grant such an extension if he or she finds that the installation of BACT or technology to meet LAER controls the same pollutant (or stream of pollutants) that would be controlled at that source by the relevant emission standard.

(6)(i) The request for a compliance extension under paragraph (a)(4) of this section shall include the following information:

(A) A description of the controls to be installed to comply with the standard;

(B) A compliance schedule, including the date by which each step toward compliance will be reached. At a minimum, the list of dates shall include:

(1) The date by which contracts for emission control systems or process changes for emission control will be awarded, or the date by which orders will be issued for the purchase of component parts to accomplish emission control or process changes;

(2) The date by which on-site construction, installation of emission control equipment, or a process change is to be initiated;

(3) The date by which on-site construction, installation of emission control equipment, or a process change is to be completed; and

(4) The date by which final compliance is to be achieved.

(C) A description of interim emission control steps, that will be taken during the extension period, including milestones to assure proper operation and maintenance of emission control and process equipment; and

(D) Whether the owner or operator is also requesting an extension of other applicable requirements (e.g., performance testing requirements).

(ii) The request for a compliance extension under paragraph (4)(i) of this section shall include all information needed to demonstrate to the Administrator's satisfaction that the installation of BACT or technology to meet LAER controls the same pollutant (or stream of pollutants) that would be controlled at that source by the relevant emission standard.

(7) Advice on requesting an extension of compliance may be obtained from the Administrator (or the State with an approved permit program).

(8) *Approval of request for extension of compliance.* Paragraphs (a)(9) through (a)(14) of this section concern approval of an extension of compliance requested

under paragraphs (a)(4) through (a)(6) of this section.

(9) Based on the information provided in any request made under paragraphs (a)(4) through (a)(6) of this section, or other information, the Administrator (or the State with an approved permit program) may grant an extension of compliance with an emission standard, as specified in paragraphs (a)(4) and (a)(5) of this section.

(10) The extension will be in writing and will—

(i) Identify each affected source covered by the extension;

(ii) Specify the termination date of the extension;

(iii) Specify the dates by which steps toward compliance are to be taken, if appropriate;

(iv) Specify other applicable requirements to which the compliance extension applies (e.g., performance tests); and

(v)(A) Under paragraph (a)(4), specify any additional conditions that the Administrator (or the State) deems necessary to assure installation of the necessary controls and protection of the health of persons during the extension period; or

(B) Under paragraph (a)(5), specify any additional conditions that the Administrator deems necessary to assure the proper operation and maintenance of the installed controls during the extension period.

(11) The owner or operator of an existing source that has been granted an extension of compliance under paragraph (a)(10) of this section may be required to submit to the Administrator (or the State with an approved permit program) progress reports indicating whether the steps toward compliance outlined in the compliance schedule have been reached. The contents of the progress reports and the dates by which they shall be submitted will be specified in the written extension of compliance granted under paragraph (a)(9) of this section.

(12)(i) The Administrator (or the State with an approved permit program) will notify the owner or operator in writing of approval or intention to deny approval of a request for an extension of compliance within 30 calendar days after receipt of sufficient information to evaluate a request submitted under paragraph (a)(4)(i) or (a)(5) of this section. The 30-day approval or denial period will begin after the owner or operator has been notified in writing that his/her application is complete. The Administrator (or the State) will notify the owner or operator in writing of the status of his/her application, that is, whether the application contains

sufficient information to make a determination, within 30 calendar days after receipt of the original application and within 30 calendar days after receipt of any supplementary information that is submitted.

(ii) When notifying the owner or operator that his/her application is not complete, the Administrator will specify the information needed to complete the application and provide notice of opportunity for the applicant to present, in writing, within 30 calendar days after he/she is notified of the incomplete application, additional information or arguments to the Administrator to enable further action on the application.

(iii) Before denying any request for an extension of compliance, the Administrator (or the State with an approved permit program) will notify the owner or operator in writing of the Administrator's (or the State's) intention to issue the denial, together with—

(A) Notice of the information and findings on which the intended denial is based; and

(B) Notice of opportunity for the owner or operator to present in writing, within 15 calendar days after he/she is notified of the intended denial, additional information or arguments to the Administrator (or the State) before further action on the request.

(iv) The Administrator's final determination to deny any request for an extension will be in writing and will set forth the specific grounds on which the denial is based. The final determination will be made within 30 calendar days after presentation of additional information or argument (if the application is complete), or within 30 calendar days after the final date specified for the presentation if no presentation is made.

(13)(i) The Administrator will notify the owner or operator in writing of approval or intention to deny approval of a request for an extension of compliance within 30 calendar days after receipt of sufficient information to evaluate a request submitted under paragraph (a)(4)(ii) of this section. The 30-day approval or denial period will begin after the owner or operator has been notified in writing that his/her application is complete. The Administrator (or the State) will notify the owner or operator in writing of the status of his/her application, that is, whether the application contains sufficient information to make a determination, within 15 calendar days after receipt of the original application and within 15 calendar days after receipt of any supplementary information that is submitted.

(ii) When notifying the owner or operator that his/her application is not complete, the Administrator will specify the information needed to complete the application and provide notice of opportunity for the applicant to present, in writing, within 15 calendar days after he/she is notified of the incomplete application, additional information or arguments to the Administrator to enable further action on the application.

(iii) Before denying any request for an extension of compliance, the Administrator will notify the owner or operator in writing of the Administrator's intention to issue the denial, together with—

(A) Notice of the information and findings on which the intended denial is based; and

(B) Notice of opportunity for the owner or operator to present in writing, within 15 calendar days after he/she is notified of the intended denial, additional information or arguments to the Administrator before further action on the request.

(iv) A final determination to deny any request for an extension will be in writing and will set forth the specific grounds on which the denial is based. The final determination will be made within 30 calendar days after presentation of additional information or argument (if the application is complete), or within 30 calendar days after the final date specified for the presentation if no presentation is made.

(14) The Administrator (or the State with an approved permit program) may terminate an extension of compliance at an earlier date than specified if any specification under paragraphs (a)(10)(iii) or (a)(10)(iv) of this section is not met.

(15) [Reserved]

(16) The granting of an extension under this section shall not abrogate the Administrator's authority under section 114 of the Act.

(b) *Waiver of performance tests.*

(1) Until a waiver of a performance testing requirement has been granted by the Administrator under this paragraph, the owner or operator of an affected source remains subject to the requirements of this section.

(2) Individual performance tests may be waived upon written application to the Administrator if, in the Administrator's judgment, the source is meeting the relevant standard(s) on a continuous basis, or the source is being operated under an extension of compliance, or the owner or operator has requested an extension of compliance and the Administrator is still considering that request.

(3) *Request to waive a performance test.*

(i) If a request is made for an extension of compliance under paragraph (a) of this section, the application for a waiver of an initial performance test shall accompany the information required for the request for an extension of compliance. If no extension of compliance is requested or if the owner or operator has requested an extension of compliance and the Administrator is still considering that request, the application for a waiver of an initial performance test shall be submitted at least 60 days before the performance test if a site-specific test plan is not submitted.

(ii) If an application for a waiver of a subsequent performance test is made, the application may accompany any required compliance progress report, compliance status report, or excess emissions and continuous monitoring system performance report, but it shall be submitted at least 60 days before the performance test if a site-specific test plan is not submitted.

(iii) Any application for a waiver of a performance test shall include information justifying the owner or operator's request for a waiver, such as the technical or economic infeasibility, or the impracticality, of the affected source performing the required test.

(4) *Approval of request to waive performance test.* The Administrator will approve or deny a request for a waiver of a performance test made under paragraph (b)(3) of this section when he/she—

(i) Approves or denies an extension of compliance under paragraph (a) of this section; or

(ii) Approves or disapproves a site-specific test plan; or

(iii) Makes a determination of compliance following the submission of a required compliance status report or excess emissions and continuous monitoring systems performance report; or

(iv) Makes a determination of suitable progress towards compliance following the submission of a compliance progress report, whichever is applicable.

(5) Approval of any waiver granted under this section shall not abrogate the Administrator's authority under the Act or in any way prohibit the Administrator from later canceling the waiver. The cancellation will be made only after notice is given to the owner or operator of the affected source.

(c) *Use of an alternative monitoring method.*

(1) *General.* Until permission to use an alternative monitoring method has been granted by the Administrator

under this paragraph, the owner or operator of an affected source remains subject to the requirements of this section and the relevant standard.

(2) After receipt and consideration of written application, the Administrator may approve alternatives to any monitoring methods or procedures of this part including, but not limited to, the following:

(i) Alternative monitoring requirements when installation of a CMS specified by a relevant standard would not provide accurate measurements due to liquid water or other interferences caused by substances within the effluent gases;

(ii) Alternative monitoring requirements when the affected source is infrequently operated;

(iii) Alternative monitoring requirements to accommodate CEMS that require additional measurements to correct for stack moisture conditions;

(iv) Alternative locations for installing CMS when the owner or operator can demonstrate that installation at alternate locations will enable accurate and representative measurements;

(v) Alternate methods for converting pollutant concentration measurements to units of the relevant standard;

(vi) Alternate procedures for performing daily checks of zero (low-level) and high-level drift that do not involve use of high-level gases or test cells;

(vii) Alternatives to the American Society for Testing and Materials (ASTM) test methods or sampling procedures specified by any relevant standard;

(viii) Alternative CMS that do not meet the design or performance requirements in this part, but adequately demonstrate a definite and consistent relationship between their measurements and the measurements of opacity by a system complying with the requirements as specified in the relevant standard. The Administrator may require that such demonstration be performed for each affected source; or

(ix) Alternative monitoring requirements when the effluent from a single affected source or the combined effluent from two or more affected sources is released to the atmosphere through more than one point.

(3) If the Administrator finds reasonable grounds to dispute the results obtained by an alternative monitoring method, requirement, or procedure, the Administrator may require the use of a method, requirement, or procedure specified in this section or in the relevant standard. If the results of the specified and alternative method, requirement, or

procedure do not agree, the results obtained by the specified method, requirement, or procedure shall prevail.

(4)(i) *Request to use alternative monitoring method.* An owner or operator who wishes to use an alternative monitoring method shall submit an application to the Administrator as described in paragraph (c)(4)(ii) of this section, below. The application may be submitted at any time provided that the monitoring method is not used to demonstrate compliance with a relevant standard or other requirement. If the alternative monitoring method is to be used to demonstrate compliance with a relevant standard, the application shall be submitted not later than with the site-specific test plan required or with the site-specific performance evaluation plan (if requested) or at least 60 days before the performance evaluation is scheduled to begin.

(ii) The application shall contain a description of the proposed alternative monitoring system and a performance evaluation test plan, if required. In addition, the application shall include information justifying the owner or operator's request for an alternative monitoring method, such as the technical or economic infeasibility, or the impracticality, of the affected source using the required method.

(iii) The owner or operator may submit the information required in this paragraph well in advance of the submittal dates specified in paragraph (c)(4)(i) above to ensure a timely review by the Administrator in order to meet the compliance demonstration date specified in this section or the relevant standard.

(5) *Approval of request to use alternative monitoring method.*

(i) The Administrator will notify the owner or operator of approval or intention to deny approval of the request to use an alternative monitoring method within 30 calendar days after receipt of the original request and within 30 calendar days after receipt of any supplementary information that is submitted. Before disapproving any request to use an alternative monitoring method, the Administrator will notify the applicant of the Administrator's intention to disapprove the request together with—

(A) Notice of the information and findings on which the intended disapproval is based; and

(B) Notice of opportunity for the owner or operator to present additional information to the Administrator before final action on the request. At the time the Administrator notifies the applicant of his or her intention to disapprove the

request, the Administrator will specify how much time the owner or operator will have after being notified of the intended disapproval to submit the additional information.

(ii) The Administrator may establish general procedures and criteria in a relevant standard to accomplish the requirements of paragraph (c)(5)(i) of this section.

(iii) If the Administrator approves the use of an alternative monitoring method for an affected source under paragraph (c)(5)(i) of this section, the owner or operator of such source shall continue to use the alternative monitoring method until he or she receives approval from the Administrator to use another monitoring method as allowed by this subpart or a subpart referenced by this subpart.

(6) *Alternative to the relative accuracy test.* An alternative to the relative accuracy test for CEMS specified in a relevant standard may be requested as follows:

(i) *Criteria for approval of alternative procedures.* An alternative to the test method for determining relative accuracy is available for affected sources with emission rates demonstrated to be less than 50 percent of the relevant standard. The owner or operator of an affected source may petition the Administrator under paragraph (c)(6)(ii) of this section to substitute the relative accuracy test in section 7 of Performance Specification 2 with the procedures in section 10 if the results of a performance test conducted according to the requirements specified in this subpart or subpart referenced by this subpart demonstrate that the emission rate of the pollutant of interest in the units of the relevant standard is less than 50 percent of the relevant standard. For affected sources subject to emission limitations expressed as control efficiency levels, the owner or operator may petition the Administrator to substitute the relative accuracy test with the procedures in section 10 of Performance Specification 2 if the control device exhaust emission rate is less than 50 percent of the level needed to meet the control efficiency requirement. The alternative procedures do not apply if the CEMS is used continuously to determine compliance with the relevant standard.

(ii) *Petition to use alternative to relative accuracy test.* The petition to use an alternative to the relative accuracy test shall include a detailed description of the procedures to be applied, the location and the procedure for conducting the alternative, the concentration or response levels of the alternative relative accuracy materials,

and the other equipment checks included in the alternative procedure(s). The Administrator will review the petition for completeness and applicability. The Administrator's determination to approve an alternative will depend on the intended use of the CEMS data and may require specifications more stringent than in Performance Specification 2.

(iii) *Rescission of approval to use alternative to relative accuracy test.* The Administrator will review the permission to use an alternative to the CEMS relative accuracy test and may rescind such permission if the CEMS data from a successful completion of the alternative relative accuracy procedure indicate that the affected source's emissions are approaching the level of the relevant standard. The criterion for reviewing the permission is that the collection of CEMS data shows that emissions have exceeded 70 percent of the relevant standard for any averaging period, as specified in the relevant standard. For affected sources subject to emission limitations expressed as control efficiency levels, the criterion for reviewing the permission is that the collection of CEMS data shows that exhaust emissions have exceeded 70 percent of the level needed to meet the control efficiency requirement for any averaging period, as specified in the relevant standard. The owner or operator of the affected source shall maintain records and determine the level of emissions relative to the criterion for permission to use an alternative for relative accuracy testing. If this criterion is exceeded, the owner or operator shall notify the Administrator within 10 days of such occurrence and include a description of the nature and cause of the increased emissions. The Administrator will review the notification and may rescind permission to use an alternative and require the owner or operator to conduct a relative accuracy test of the CEMS as specified in section 7 of Performance Specification 2.

(d) *Waiver of recordkeeping or reporting requirements.*

(1) Until a waiver of a recordkeeping or reporting requirement has been granted by the Administrator under this paragraph, the owner or operator of an affected source remains subject to the recordkeeping and reporting requirements of this subpart and any subparts referenced by this subpart.

(2) Recordkeeping or reporting requirements may be waived upon written application to the Administrator if, in the Administrator's judgment, the affected source is achieving the relevant standard(s), or the source is operating

under an extension of compliance, or the owner or operator has requested an extension of compliance and the Administrator is still considering that request.

(3) If an application for a waiver of recordkeeping or reporting is made, the application shall accompany the request for an extension of compliance under paragraph (a), any required compliance progress report or compliance status report required under this part or in the source's title V permit, or an excess emissions and continuous monitoring system performance report required under subpart SS or another subpart referenced by this subpart, whichever is applicable. The application shall include whatever information the owner or operator considers useful to convince the Administrator that a waiver of recordkeeping or reporting is warranted.

(4) The Administrator will approve or deny a request for a waiver of recordkeeping or reporting requirements under this paragraph when he/she—

(i) Approves or denies an extension of compliance under paragraph (a); or

(ii) Makes a determination of compliance following the submission of a required compliance status report or excess emissions and continuous monitoring systems performance report; or

(iii) Makes a determination of suitable progress towards compliance following the submission of a compliance progress report, whichever is applicable.

(5) A waiver of any recordkeeping or reporting requirement granted under this paragraph may be conditioned on other recordkeeping or reporting requirements deemed necessary by the Administrator.

(6) Approval of any waiver granted under this section shall not abrogate the Administrator's authority under the Act or in any way prohibit the Administrator from later canceling the waiver. The cancellation will be made only after notice is given to the owner or operator of the affected source.

§ 63.1113 Procedures for approval of alternative means of emission limitation.

(a) *Alternative means of emission limitation.* An owner or operator of an affected source may request a determination of alternative means of emission limitation to the requirements of design, equipment, work practice, or operational standards of this subpart or of a subpart referenced by this subpart. If, in the judgment of the Administrator, an alternative means of emission limitation will achieve a reduction in HAP emissions at least equivalent to the reduction in emissions from that source achieved under any design, equipment,

work practice, or operational standards (but not performance standards) in this subpart, the Administrator will publish in the **Federal Register** a notice permitting the use of the alternative means for purposes of compliance with that requirement.

(1) The notice may condition the permission on requirements related to the operation and maintenance of the alternative means.

(2) Any such notice shall be published only after public notice and an opportunity for a hearing.

(b) *Content of submittal.*—(1) In order to obtain approval, any person seeking permission to use an alternative means of compliance under this section shall collect, verify, and submit to the Administrator information showing that the alternative means achieves equivalent emission reductions. An owner or operator of an affected source seeking permission to use an alternative means of compliance who has not previously performed testing shall also submit a proposed test plan. If the owner or operator seeks permission to use an alternative means of compliance based on previously performed testing, they shall submit the results of testing, a description of the procedures followed in testing or monitoring, and a description of pertinent conditions during testing or monitoring.

(2) The owner or operator who requests an alternative means of emissions limitation shall submit a description of the proposed testing, monitoring, recordkeeping, and reporting that will be used and the proposed basis for demonstrating compliance.

(3) For storage vessels, the owner or operator shall include the results of actual emissions tests using full-size or scale-model storage vessels that accurately collect and measure all regulated HAP emissions using a given control technique, and that accurately simulate wind and account for other emission variables such as temperature and barometric pressure, or an engineering analysis that the Administrator determines to be an accurate method of determining equivalence.

(4) For proposed alternatives to equipment leak requirements referenced by this subpart, the owner or operator shall also submit the information specified in and meet the requirements for alternate means of emission limitation specified in the referenced subparts.

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